

No. 9/7/86-6Lab/7458.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. (i) Transport Commissioner, Haryana, Chandigarh (ii) General Manager, Haryana Roadways, Rewari, District Mahendergarh.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,  
ROHTAK

Reference No. 88 of 1985

between

SHRI DHARAMBIR SINGH, WORKMAN AND THE MANAGEMENT OF M/S. (i) TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH, (ii) GENERAL MANAGER, HARYANA ROADWAYS, REWARI, DISTRICT MAHENDERGARH.

Present.—

Shri Mahavir Tyage, A. R. for the workman.

Shri R. S. Yadav, A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following disputes, between the workman Shri Dharambir and the management of M/s. (i) Transport Commissioner, Haryana, Chandigarh, (ii) General Manager, Haryana Roadways, Rewari, District Mahendergarh, to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 23498-504, dated 3rd May, 1985:—

Whether the termination of services of Shri Dharambir is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The claim of the petitioner is that he was employed with the respondent as a Driver on 20th November, 1982 on monthly wages of Rs. 670 and that his services were terminated on 26th August, 1984 (in the demand notice received alongwith the order of reference the date of termination is mentioned as 28th June, 1984) and his services were terminated by the respondent without complying with the mandatory provisions of section 25 F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). So, he has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, it is alleged that the petitioner was appointed as Driver on 9th February, 1984 by the General Manager, Haryana Roadways, Rewari, against suspension vacancy of one Shri Prahalad Singh, Driver number 225 purely on temporary basis and that on 30th May, 1984 the petitioner caused damage to bus No. HRM 8268. It is denied that no enquiry was held into the said accident and that the order of termination is legal and lawful. Additional plea taken is that this Court has no jurisdiction to try this present reference.

4. On the pleadings of the parties, the following issue was settled for decision by me on 1st January, 1986:—

1. As per terms of reference.

5. The petitioner in support of his claim appeared as WW-1 and examined one Shri Virender Singh, Clerk, Haryana Roadways, Rewari as WW-2. The respondent examined MW-1 Shri Ram Parshad, Yard Master, Haryana Roadways, Rewari.

6. Authorised Representatives of the parties heard.

7. During the course of evidence, it has been established that the petitioner's appointment is being made in dribblets since 19th November, 1982. Initially he was appointed on the said date and his services were dispensed with on 31st January, 1983. He was again appointed on 16th May, 1983 and his services were terminated on 20th August, 1983. He was again appointed on 9th February, 1984 and his services were dispensed with on 28th June, 1984. Copies of the orders are Ex. W-1 to W-4. I regret to observe that the previous appointment of the petitioner was suppressed by the respondent in the reply filed in the Court. In the reply filed, it is alleged that the petitioner was appointed on 9th February, 1984 only. Before termination of services of the petitioner could fall within the ambit of term "retrenchment" as defined in section 2(oo) of the said Act, he must have actually worked with the

respondent for 240 days during the last 12 calendar months. Calculation of the number of days worked by the petitioner with the respondent was made in the presence of the Authorised Representatives of the parties. The total number of working days during the last twelve calendar months comes to 194 days which are far short of the statutory 240 days required. So, the petitioner cannot avail of the provisions of section 25F of the said Act, and as such, his termination cannot be said to be illegal and unlawful. He is not entitled to any relief. Reference is answered and returned accordingly with no order as to cost.

Dated, the 28th August, 1986.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

Endorsement No. 88-85/1187, dated the 5th September, 1986.

Forwarded, (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.

No. 9/7/86-6Lab./7459.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s (i) Managing Director Hafed, Chandigarh (ii) District Manager, Hafed, Sirsa, Industrial Area No. 3, Rania Road, Sirsa.

BEFORE SHRI B.P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 21 of 1986

between

SHRI BHOOP SINGH, WORKMAN, AND THE MANAGEMENT OF M/S MANAGING DIRECTOR, HAFED, CHANDIGARH (ii) DISTRICT MANAGER, HAFED, SIRSA, INDUSTRIAL AREA NO. 3, RANIA ROAD, SIRSA.

Present.—

Shri V. K. Bansal, A. R. for the workman.

Shri S. S. Goyal, A. R. for the management.

#### AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Bhoop Singh and the management of M/s. (i) Managing Director, Hafed, Chandigarh (ii) District Manager Hafed, Sirsa, Industrial Area, No. 3, Rania Road, Sirsa, to this court, for adjudication,—vide *Haryana Government Gazette* Notification No. 4423—28, dated 29th January, 1986 :—

Whether the termination of services of Shri Bhoop Singh, s/o Shri Jodha Ram, is justified and in order ? If not, to what relief is he entitled ?

#### AWARD

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Chowkidar since 10th February, 1980 and was posted in the Godown of the respondent at Rania and that since the month of February, 1985, the petitioner was not allowed to resume his duties without any excuse and that the act of the respondent not allowing him to resume duty amounts to retrenchment and so, he has prayed for reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, the claim of the workman has been controverted in toto. It is alleged that the petitioner of his own abandoned his employment after 16th August, 1984, because on the said date the petitioner of his own started absenting from his duties leaving the huge stock for grain unattended without any intimation to the management and under these circumstances, the management was constrained to employ some alternative hand, because the petitioner was simply employed on daily wages. Additional pleas projected are that this Court has no jurisdiction to try this present reference and that the petitioner is estopped from raising the present dispute and that he of his own abandoned his employment.

4. On the pleadings of the parties, the following issues were settled for decision by me on 22nd May, 1986:—

1. As per terms of reference.
2. Whether the workman abandoned his services of his own.
3. Whether this Court has no jurisdiction to try the present reference in view of preliminary objection No. 1 of the written statement.

5. In support of his claim, the petitioner himself appeared as WW-1 and the respondent examined MW-1 Shri Krishan Kumar, Field Officer.

6. The learned Authorised Representatives of the parties heard. My findings on the issues framed are as below:—

#### Issue No. 3

7. This issue was not pressed on behalf of the respondent, so the same is answered against it.

#### Issues No. 1 and 2

8. These issues have been clubbed together for decision as they defy separate discussion. This reference is bad in law, because the terms of reference are about the justifiability or otherwise of the alleged order of termination, which was never passed against the petitioner. In the present case, this Court has been called upon to adjudicate upon a non-existent termination order, because the case of the respondent is that the petitioner of his own started absenting from his duties with effect from 16th August, 1984 and this fact is not denied by the petitioner when he appeared in the Court. He further admitted that he has received his wages upto 15th August, 1984. So, from the statement of the petitioner himself, he has no actionable claim for adjudication. So, both these issues are answered against the petitioner, who is not entitled to any relief and as such, this reference is dismissed and answered accordingly. - There is no order as to cost.

Dated, the 21st August, 1986.

P. B. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.  
Camp Court, Sirsa.

Endst. No. 21-86/1188, dated 5th September, 1986.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Dispute Act, 1947.

B. P. JINDAL,

Presiding Officer,  
Labour Court, Rohtak.  
Camp Court, Sirsa.